

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DISTRICT**

**MICHELLE DAY, ADMINISTRATOR
OF THE ESTATE OF JAMES AVERY
DEWEESE, SR. AND ON BEHALF OF
THE WRONGFUL DEATH BENEFICIARIES
OF JAMES AVERY DEWEESE, SR;
RUTH DEWEESE, INDIVIDUALLY; and
MICHELLE DAY, INDIVIDUALLY**

PLAINTIFFS

VS.

CASE NO. 4:14-CV-0342 KGB

UNITED STATES OF AMERICA

DEFENDANT

**MOTION FOR SUMMARY JUDGMENT ON THE ISSUE OF LIABILITY
AS TO DEFENDANT THE UNITED STATES OF AMERICA**

1. Plaintiffs move for Summary Judgment on the issue of liability as to the Defendant.

2. The deposition of Dr. Devon Holder, M.D., was taken, in this case, in Little Rock, Arkansas on October 27, 2015.

3. Relevant portion of the deposition will be offered in support of the Motion for Summary Judgment.

4. Based on the testimony of Dr. Devon Holder, M.D., that he made a mistake in the reading of the test in this case there is no issue of liability and, therefore, Plaintiffs move for Summary Judgment on the issue of liability in that

the medical care provider deviated from the standard of care which was a proximate cause of damage to the Plaintiff.

5. Offered in support of the Motion for Summary Judgment of the following pages of the deposition testimony of Dr. Devon Holder, M.D., viz:

1. Page 4 - Page 9.
2. Page 12 - Page 61 (together with the exhibits to the deposition).

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RUTH DEWEESE, INDIVIDUALLY; and
MICHELLE DAY, INDIVIDUALLY, Plaintiffs**

By: /s/ David Hodges
DAVID A. HODGES
Attorney at Law
212 Center Street, Fifth Floor
Little Rock, AR 72201-2429
Arkansas Bar No. 65021
Telephone: 501-374-2400
Facsimile: 501-374-8926
E-Mail: david@hodeslaw.com

CERTIFICATE OF SERVICE

I hereby certify that on February 15, 2016, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which shall send notification of such filing to the following:.

Ms. Lindsey Mitcham Lorence
Assistant United States Attorney
P.O. Box 1229
Little Rock, AR 72203

/s/ David Hodges
DAVID HODGES